

REMARKS

In response to the Office Action of March 7, 2005, please consider the following remarks.

In the Office Action mailed March 7, 2005, claims 1-4, 11-14, 16-19, 26-29, 31-34, and 41-44 were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent 6,757,894 (hereinafter Eylon et al.). Claims 5-9, 20-24, and 35-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eylon et al. in view of US Patent 6,687,745 (hereinafter Franco et al.). Claims 10, 15, 25, 30, 40, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eylon et al. in view of US Patent 6,735,631 (hereinafter Oehrke et al.).

The Applicants have not amended the claims. Reconsideration of the instant application by the Examiner in view of the remarks below is respectfully requested.

The Prior Art

The Examiner relies upon Eylon et al., either alone or in combination with Franco et al. or Oehrke et al., to reject claims 1-45. The applicants have submitted a 131 affidavit in order to establish priority of invention vis-à-vis the Eylon et al. reference. The applicants respectfully assert that, at the very least, overcoming the Eylon et al. reference is sufficient to put the claims in a condition for allowance. The applicants do not provide any opinion regarding the teachings of Eylon et al., Franco et al., or Oehrke et al. because no such opinion is deemed necessary.

The 131 Affidavit

The essential thing to be shown under 37 CFR 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. *MPEP 715.07*. The 131 affidavit includes a series of facts, including dates of diligent activity, along with an assertion of diligence, of character and weight sufficient to establish diligence. As with conception, Applicant has made a *prima facie* showing of diligence, accompanied by facts supporting the declaration.

The 131 Affidavit establishes a date of invention prior to September 26, 2000. The priority date of Eylon et al. is at best September 26, 2000. It should be noted that the priority date of Eylon et al. could be as late as December 28, 2000, if the Eylon et al. patent is different from the provisional application, filed on September 26, 2000, to which Eylon et al. claims priority.

The 131 Affidavit establishes diligence from before September 26, 2000, to November 6, 2000. On November 6, 2000, a patent application was filed, which is a constructive reduction to practice.

The 131 Affidavit includes a table with facts corresponding to, for example, the elements of Claim 1. The applicants respectfully assert that the facts provided in the appendices of the 131 Affidavit correspond to the independent claims 16 and 31, too. Claims 2-15, 17-30, and 31-45 depend from the independent claims 1, 16, and 31, respectively.

The Prior Art Distinguished

All of the Examiner's rejections rely upon Eylon et al. as a primary reference. Since the date of conception, followed with diligence to constructive reduction to

practice, is prior to the best priority date of Eylon et al., the applicants respectfully submit that claims 1-45 are allowable over the Eylon et al. reference. Accordingly, claims 1-45 are believed to be in a condition for allowance.

Conclusion

In view of the foregoing, the Applicants respectfully submit that the pending claims are allowable. The Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions or comments, he is encouraged to call the undersigned at (650) 838-4305 so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
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